of authority, but the courts are by no means uniform in its application, and there are many exceptions to it. Thus subrogation is usually granted to a volunteer, who advances money to a wife living apart from her husband to be expended for necessaries, *Harris* v. *Lee*, 1 P. W. 482; or who pays a protested bill of exchange for the honor of the drawer or other party to it, *Bishop* v. *O'Connor*, 69 Ill. 431; or who advances money to pay a claim, owing to a mistake of fact, or owing to fraud in the borrower, *Milholland* v. *Tiffany*, 64 Md. 465. Indeed, it is said by Allen, J., in *Barnes* v. *Mott*, 64 N. Y. 397, that the doctrine of subrogation has of late been greatly extended, and, modified to meet the circumstances of cases, has been applied to volunteers. The confusion on this subject seems to be due to the fact that the courts have erroneously treated the rule, that equity will not grant subrogation to a meddler, as in some way a deduction from the rule that it will not aid a volunteer. The subject would be much clearer if it were generally recognized that subrogation will be granted when justice demands it. On principle there seems to be no sufficient reason for calling a person, situated as is the plaintiff in the present case, a meddler, and on that account refusing him equitable relief. He was not officious, the prior mortgage was paid off to protect, as he thought, his own interests, and the distinction drawn by the court, that as his payment was due to a mistake of law and not one of fact, there could be no subrogation, appears in a court of equity rather forced.

The court, moreover, fails to notice that the plaintiff might have had a remedy at law. If the defendant repudiated the transaction, the consideration on which the first mortgagee received the money fails, he will still hold his remedy, the mortgage debt, and the plaintiff can recover against him in an action for money had and received. If, on the other hand, the defendant ratifies the transaction, since that ratification is equivalent to a prior authority, it would seem that the plaintiff could recover against the defendant in an action for money paid to the defendant's use. *Crumlish's Adm'r* v. *Improvement Co.*, 38 W. Va. 390.

THE LAW GOVERNING TRIBAL INDIANS. — The recent case of *Jones* v. *Meehan*, Supreme Court of the United States, October Term, 1899, manuscript, brought up an interesting question as to the status of certain Indian tribes in Minnesota. In that case, a bill in equity to quiet title, it became necessary for the plaintiff to show that one Moose Dung the younger was sole owner of the land in question. All his right he had as heir of his father, the old chief Moose Dung of the Red Lake Band of Chippewa Indians; to whom the land was originally given by the United States. The old chief left a number of children by two wives; it was contended that they all inherited the lands of their father. But the court said these Indians were tribal Indians, they lived with their tribe, and the tribal organization was still kept up; so the laws of the tribe must govern the descent of the property. And by the laws of the tribe, as was established, the young Moose Dung, the eldest son of the old chief and his successor as chief of the tribe, took all the property of the father. Those Indian tribes, although the United States deals with them by treaty, are yet of necessity subject to whatever legislation Congress may enact for them, *U. S.* v. *Kagama*, 118 U. S. 375; but they have no

relations at all with the separate States. Tribal Indians on a reservation are subject to the original tribal law as modified by the special United States statutes, but no State law is of any effect, although the reservation may be within the territorial limits of the State. This has been clear in regard to the laws of marriage, probate, or of personal property; as to these the tribal law has been frequently recognized. The recognition of it in regard to the descent of real property, as in this case, is rare, yet it is obviously entirely sound.

THE LIMITS OF RIPARIAN LAND. — As to the right of those who own land bordering upon a stream to the use or detention of the water of such stream, there are numerous decisions: that for domestic purposes (which includes the watering of stock as well as the necessities of the household) a riparian proprietor has a natural right to use all the water in the stream; that for business purposes (manufacture or irrigation) he may, in America, consume or detain his fair share of the water, even though this result is damage to a lower proprietor; that water so taken and detained must be for use on riparian land, — yet there is a singular lack of authority as to just what land may be called riparian. In a recent case in California, however, the question was brought squarely before the court. *Battegate* v. *Irvine*, 58 Pac. Rep. 442 (Cal., Sup. Ct. Com.). The defendant, whose land extended far back from the stream, was in the habit of conveying water from the stream across the watershed for his live-stock. The plaintiff, a lower proprietor who was inconvenienced, recovered judgment, on the ground that riparian rights cannot extend beyond the watershed of the stream. The reason given by the court is that land which contributes by drainage to the waters of a stream is entitled to the benefits derived from the stream, and ought not to be deprived of these benefits by land which in no wise drains into the stream. Hence, land beyond the watershed is not properly riparian. This reasoning seems adequate, although the rule laid down is rather indefinite as regards the actual extent of riparian land, which must vary according to the natural features of the district. When riparian right originated, in early times in England, there was neither such a scarcity of water, nor such an extensive use of it for domestic purposes. In applying it to the changed conditions in this country, therefore, it is well to keep the right strictly within limits. As regards the right to a fair share of the water for business purposes, which is allowed generally in this country, though not in England, the same reasoning applies. The rule in the present case, that riparian rights extend only to the watershed of the stream, being just and easy of application, would therefore seem to be sound law.

RIGHT OF SUPPORT. — The peculiar facts in the case of *Trinidad Asphalt Co.* v. *Ambard*, 81 L. T. Rep. 132, raise an open question. The parties were owners of adjoining lots on the island of Trinidad, under a large portion of which is a deposit of asphalt, which lies from four to six feet below the surface. The nature of this substance is such that its consistency varies with the temperature and the pressure to which it is subjected, and, having no angle of repose, it moves continually in the direction of least resistance. The defendant excavated on his lot so